

MEMORANDUM ENDORSEMENT

Vitale v. Central Avenue Nissan, Inc.  
21 CV 4860 (VB)

The Court construes the attached letter as a motion for a voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1). The motion is GRANTED as to the federal claims in the complaint (First and Second causes of action), which are dismissed with prejudice.

Having dismissed all claims over which the Court has original jurisdiction, the Court declines to exercise supplemental jurisdiction over plaintiff's state-law claims (Third, Fourth, and Fifth causes of action). See 28 U.S.C. § 1367(c).

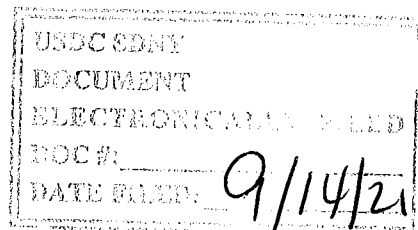
The Clerk is instructed to terminate the pending motion (Doc. #13) and close this case.

Dated: September 14, 2021  
White Plains, NY

SO ORDERED:



Vincent L. Briccetti  
United States District Judge





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YURIY MOSHES, P.C.

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September 13, 2021

Via ECF

Hon. Vincent L. Briccetti  
United States District Judge  
United States District Court  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

**RE: *Vitale v. Central Avenue Nissan, et. al.***  
**21-cv-04860 (VB)**

Your Honor:

We represent Plaintiff Dawn Vitale ("Plaintiff"), in the above-captioned matter. Plaintiff submits this letter to advise the Court that Plaintiff will not oppose Defendants' Motion to Dismiss and that Plaintiff intends to voluntarily withdraw this matter pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure.

On September 10, 2021, Plaintiff's counsel emailed Defendants advising them that Plaintiff does not oppose Defendants' motion to dismiss and acquiesces to their requested relief of dismissing this action, and attached a proposed Voluntary Stipulation of Dismissal dismissing all federal claims with prejudice and all state law claims without prejudice. The proposed Stipulation is attached hereto as Exhibit "A." Today, on September 13, 2021, Defendants refused to execute the Stipulation of Dismissal, despite Plaintiff acquiescing to Defendants' requested relief of dismissing this action. During a call with Defendants' counsel, Defendants stated that their reasoning in refusing to execute the Stipulation of Voluntary Dismissal is because "[Defendants] have already filed [their] motion and already put the work into it."

Plaintiff will not oppose Defendants' Motion to Dismiss and acquiesces to dismissing all federal law claims with prejudice and dismissing all state law claims without prejudice.

We thank the Court for its time and consideration in resolving this matter.

Respectfully submitted,

**LAW OFFICE OF YURIY MOSHES, P.C.**

/s/ Junou M. Odige

Jessenia Maldonado, Esq.

Junou Odige, Esq.

*Attorneys for Plaintiff*

cc: Jill Horton-Miller, Esq. (*Via* ECF)